

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Derek Martin on 06/24/2009.

The application has been amended as follows:

#### **Title**

The title below replaces all previous titles:

Method of providing metered capacity of temporary computer resources

#### **Listing of the Claims**

The listing of the claims below replaces all previous listings of the claims:

45. (Currently Amended) A computer-implemented method for providing metered capacity of at least one temporary resource on demand in a computer system that includes a plurality of logical partitions, the method comprising the steps of:

providing at least one processor in the computer system;

providing a network interface coupled to the at least one processor that allows the computer system to communicate with other computer systems;

requesting an enablement code from a resource provider for the computer system;

receiving the enablement code from the resource provider, wherein the enablement code includes a specified resource-time for a selected resource;

enabling the selected resource for use;

when the selected resource is dedicated to one of the plurality of logical partitions, performing the steps of:

starting a meter timer;

using the selected resource until a time to bill occurs;

sending a record of metered usage to the resource provider based on value of the meter timer; and

the resource provider sending a bill for the metered usage of the selected resource to a customer;

when the selected resource is not dedicated to one of the plurality of logical partitions and is shared between first and second logical partitions, performing the steps of:

the first logical partition using the selected resource without charge until the metered use of the selected resource by the first logical partition exceeds a first predetermined non-zero threshold that specifies allowable usage of the selected resource by the first logical partition;

metering use of the selected resource by the first logical partition that exceeds the first predetermined non-zero threshold until a time to bill occurs; sending a record of metered usage of the selected resource by the first logical partition that exceeds the first predetermined non-zero threshold to the resource provider; the resource provider sending a bill for the metered usage of the selected resource that exceeds the first predetermined non-zero threshold to the customer; the second logical partition using the selected resource without charge until the metered use of the selected resource by the second logical partition exceeds a second predetermined non-zero threshold that specifies allowable usage of the selected resource by the second logical partition; metering use of the selected resource by the second logical partition that exceeds the second predetermined non-zero threshold until a time to bill occurs; sending a record of metered usage of the selected resource by the second logical partition that exceeds the second predetermined non-zero threshold to the resource provider; and the resource provider sending a bill for the metered usage of the selected resource that exceeds the second predetermined non-zero threshold to the customer.

Art Unit: 3687

46. (Currently Amended) A computer-implemented method for providing metered capacity of at least one temporary resource on demand in a computer system that includes a plurality of logical partitions, the method comprising the steps of:

providing at least one processor in the computer system;

providing a network interface coupled to the at least one processor that allows the computer system to communicate with other computer systems;

prepaying for a specified resource time;

requesting an enablement code from a resource provider for the computer system;

receiving the enablement code from the resource provider, wherein the enablement code includes the specified resource-time for a selected resource;

enabling the selected resource for use;

when the selected resource is dedicated to one of the plurality of logical partitions, performing the steps of:

starting a meter timer;

using the selected resource while the metered use is less than the prepaid specified resource time; and

when the metered use is no longer less than the prepaid specified resource time, disabling the selected resource;

when the selected resource is not dedicated to one of the plurality of logical partitions and is shared between first and second logical partitions, performing the steps of:

the first logical partition using the selected resource without charge until the metered use of the selected resource by the first logical partition exceeds a first predetermined non-zero threshold that specifies allowable usage of the selected resource by the first logical partition;

metering use of the selected resource by the first logical partition that exceeds the first predetermined non-zero threshold while the metered use is less than the specified allowable usage of the selected resource by the first logical partition; and

when the metered use is no longer less than the specified allowable usage of the selected resource by the first logical partition, disabling the selected resource for the first logical partition;

the second logical partition using the selected resource without charge until the metered use of the selected resource by the second logical partition exceeds a second predetermined non-zero threshold that specifies allowable usage of the selected resource by the second logical partition;

metering use of the selected resource by the second logical partition that exceeds the second predetermined non-zero threshold while the metered use is less than the specified allowable usage of the selected resource by the second logical partition; and

when the metered use is no longer less than the specified allowable usage of the selected resource by the second logical partition, disabling the selected resource for the second logical partition.

## REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Independent claims 45 and 46 are allowed because they include "when the selected resource is not dedicated to one of the plurality of logical partitions and is shared between first and second logical partitions, performing the steps of: the first logical partition using the selected resource without charge until the metered use of the selected resource by the first logical partition exceeds a first predetermined non-zero threshold that specifies allowable use of the selected resource by the first logical partition; metering use of the selected resource by the first logical partition that exceeds the first predetermined non-zero threshold until a time to bill occurs" in combination with "the second logical partition using the selected resource without charge until the metered use of the selected resource by the second logical partition exceeds a second predetermined non-zero threshold that specifies allowable usage of the selected resource by the second logical partition" in combination with "metering use of the selected resource by the second logical partition that exceeds the second predetermined non-zero threshold until a time to bill occurs." The prior art of record neither anticipates nor fairly and reasonably teaches a method for performing such steps in such combination.

The prior art references relied on in combination for the prior *Non-Final Rejection* mailed 12/23/2008 were *Circenis et al.* (US 7,146,496) and *Armstrong* (US 2002/0156824). *Circenis* is directed to a method of managing temporary capacity in a computer system. Specifically, *Circenis* discloses activating previously inactive

computer components and utilizing an audit system to track usage of the activated computer component using a debiting system where the user has a temporary capacity balance (e.g., 40 CPU-hours). (See *Circenis*, column 6, lines 46-67.) However, *Circenis* fails to teach wherein one selected resource is shared between a first and second logical partition. Furthermore, *Circenis* does not teach using the particular selected resource without charge until the use exceeds some predetermined non-zero threshold. Rather, *Circenis* merely discloses dedicating 100% of a computer resource to a single computer system, and metering and charging for the entire use of that resource, regardless of how much of that resource is actually used. *Armstrong* teaches that computer resources (e.g., processors) may be allocated such that there is no sharing of a single resource among different partitions (i.e., "dedicated"), while other resources may be shared among partitions (i.e., "pooled"). However, *Armstrong* fails to disclose metering the resources and more specifically, metering for each logical partition and charging only when the use exceeds some predetermined non-zero threshold.

Furthermore, none of the prior art of record remedies the deficiencies found in *Circenis* and *Armstrong*. In regard to non-patent literature, the closest references found were manuals and presentations regarding IBM's iSeries Planning Guide for Capacity Upgrade on Demand (see IDS, filed 07/10/2003 for detail on references). These references taught on-demand temporary use of computer resources in servers that have logical partitions, but similarly failed to describe the use of non-zero thresholds in monitoring each individual processor wherein the processor is partitioned

and shared among partitions as recited in the claim. Furthermore, the nature of the problem, nor the knowledge of a person having ordinary skill in the art, provide any reasonable rationale to combine the prior art teachings in a way as described in the present claims.

***Conclusion***

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SCOTT A. ZARE whose telephone number is (571)270-3266. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Gart can be reached on (571) 272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/  
Supervisory Patent Examiner, Art  
Unit 3687

Scott A. Zare  
Art Unit 3687  
July 1, 2009